

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on April 17, 2003 at 9:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. George Everett (R)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Michael Lange (R)
Rep. Bruce Malcolm (R)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. John Parker (D)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Scott Sales (R)
Rep. Ron Stoker (R)
Rep. Bill Thomas (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Alberta Strachan, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:	SJR 31, 4/14/2003; SB 490, 4/14/03
Executive Action:	SJR 31 Be Concurred In; SB 490 Be Concurred In As Amended

HEARING ON SJR 31

Sponsor: SEN. BILL TASH, SD 17, Dillon

Opening Statement by Sponsor:

SEN. TASH said this Joint Resolution of the Senate and the House of Representatives of the State of Montana requests that the Legislative Council designate an appropriate interim committee or direct staff resources to study elements of Montana's juvenile justice system regarding juvenile probation and to determine whether any changes in its administration are appropriate.

{Tape: 1; Side: A; Approx. Time Counter: 1 - 34}

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. FACEY asked **SEN. TASH** if a study had ever been done during the last decade. **REP. TASH** said there had been studies done by the Law of Justice Interim Committee and the Corrections Advisory Committee. The members of these committees and legislators and the people involved in the study of these issues were present. They determined there were areas of inconsistency and fragmentation in both of these previous studies.

{Tape: 1; Side: A; Approx. Time Counter: 34 - 56}

Closing by Sponsor:

The Sponsor closed.

{Tape: 1; Side: A; Approx. Time Counter: 56 - 64}

HEARING ON SB 490

Sponsor: SEN. JOHN ESP, SD 13, Big Timber

Opening Statement by Sponsor:

SEN. ESP said this bill revised the laws governing state assumption of district court costs. It revises certain district court expenses and clarifies when district court expenses must be paid directly by the State or paid by the counties and reimbursed by the State. It provides for retroactive county responsibility for accumulated sick and vacation leave for county employees who

became State employees upon State assumption of district court expenses. It creates a special revenue account to be used by the Supreme Court for payment of accumulated vacation and sick leave for county employees who became state employees on July 1, 2002. He also supplied amendments.

EXHIBIT (juh83a01)

{Tape: 1; Side: A; Approx. Time Counter: 64 - 138}

Proponents' Testimony:

SEN. JEFF MANGAN, SD 23, Great Falls, said this bill and SB 218 had feedback from the Senate, the court system and the counties. He requested the amendments also be passed.

{Tape: 1; Side: A; Approx. Time Counter: 138 - 157}

SEN. DANIEL W. McGEE, SD 11, Laurel, said people were meeting every Tuesday and Thursday night for three months trying to hammer out the details of the state assumption of district courts. There were two bills discussed in these meetings. They were SB 218 which had to do with taking indigent defense and appellate issues and putting them under the Department of Administration for administrative purposes. That bill went before the Appropriations Committee and was killed. SB 490 is everything connected with the assumptions of district courts, the courts themselves, juvenile probation and indigent defense which is under the structure of the Supreme Court. This is a committee bill that derived from the Senate Judiciary Committee. This is not an individual's bill. This is something that was worked on very hard. A primary purpose for this bill is fiscal expediency. Different counties are in arrears in being paid. The Supreme Court are the deliberators of judicial issues.

{Tape: 1; Side: A; Approx. Time Counter: 157 - 207}

Chief Justice Carla Gray, said she supported this bill without the amendments. In the Senate Judiciary Committee there were no amendments proposed. She indicated she was not aware that there would now be amendments on this bill. The agreed upon bill that was worked on by the group, supported by MACo and anyone else was the outcome of this legislation. There are times when a deal is made and that deal should be kept. This bill should be concurred in as it was originally drafted.

{Tape: 1; Side: A; Approx. Time Counter: 207 - 303}

Gordon Morris, Director, Montana Association of Counties, said MACo supports the bill, without the amendment regarding jury civil trials, and strongly support the second amendment which deals with the reduction of longevity accrual from 50% to 100% was originally drafted in the bill. It was the understanding of the Committee the percentage could be negotiated. They had not

made any agreement to go with 100% because that language was tied to SB 218. With SB 218 having failed, it is even more important to recognize that from the county perspective there are accrual savings that should be provided and recognized.

{Tape: 1; Side: A; Approx. Time Counter: 303 - 329}

Harold Blattie, Montana Association of Counties, said he agrees with the testimony of Mr. Morris. The language was accepted in this bill as it originated. When SB 218 was defeated in House Appropriations, the counties lost some of the advantages they were gaining. Some of these dollars are dollars that the State will never spend because in nearly every situation when an employee leaves, whether by retirement or termination, there is a vacancy savings. Those vacancy saving dollars are budgeted salary dollars which will be used to pay off whatever portion of accruals remain. This will give the State money that it currently does not have to be a positive fiscal note. The counties should have had the opportunity to negotiate the amount.

{Tape: 1; Side: A; Approx. Time Counter: 329 - 356}

Linda Stoll, Missoula County, said she did not leave the meetings in bill drafting which had been indicated in previous testimony. SB 218 and SB 490 were seen together. The Senators who discussed three months of work are absolutely right. There is no way to fill everyone in on all of the details of what has transpired. Missoula County's support of this bill is contingent upon the amendments Mr. Morris referenced. The reason being is that SB 218 would have moved the public defenders over to the Department of Administration. There are problems within the Public Defenders Office.

{Tape: 1; Side: A; Approx. Time Counter: 356 - 406}

Ron Ellis, Chief Administrative Officer, Lewis & Clark County, said they support this bill with the amendment. He said Lewis and Clark County's portion of the accrual should be more specific to demonstrate how it is that the State of Montana will be faced with \$1.2 million payout for the accrued leave. Of the \$1.1 to 1.2 million, Lewis and Clark County's portion is \$86,000.00. That consists of fourteen employees, with a total leave accumulation of 9,744 hours plus 25% sick leave which is 4,304 hours. That is seven and a half to eight weeks payout. If all of those employees were to quit today, Lewis and Clark County or the State of Montana would pay out eight weeks of pay. That is not the case because of the seven and a half to eight weeks, only two weeks is the net affect.

There is a minimum of 50% that counties save with hiring new people.

{Tape: 1; Side: A; Approx. Time Counter: 406 - 488}

Charles Brooks, Yellowstone County Commissioners, said they support the bill as amended.

{Tape: 1; Side: A; Approx. Time Counter: 488 - 515}

Mona Jamison, Gallitan County Commissioners, said support the bill as amended.

{Tape: 1; Side: B; Approx. Time Counter: 1 - 25}

Mary Phippen, Montana Association of Clerks of District Court, said they support this bill with the amendment.

{Tape: 1; Side: B; Approx. Time Counter: 25 - 29}

Opponents' Testimony: None

Informational Testimony:

Matt Bugni, Office of Budget & Program Planning, said he was available for questions from the Committee.

Questions from Committee Members and Responses:

REP. NOENNIG asked **SEN. ESP** if he had said that 50% of the vacation pay and 25% of sick leave pay would be paid and then there the amendment changes 50% vacation pay down to 25%. **SEN. ESP** said the definition is on Page 8, Line 6. There will be two payments made. One payment is in 2004 and the other is in 2005. **REP. NOENNIG** then asked **SEN. ESP** if he supported this bill. The Senator indicated he did support the bill without the amendment.

{Tape: 1; Side: B; Approx. Time Counter: 29 - 90}

REP. FACEY asked Mr. Morris who had set the policy on sick leave and accrual. He asked why the state should take the responsibility in this matter. **Mr. Morris** said before state assumption of 2002 obviously it was county policy. The county policy coincides with state policy and the accruals are with the county. It became the obligation of the State. With this legislation the counties would eliminate any further responsibility for that obligation by buying out that obligation.

{Tape: 1; Side: B; Approx. Time Counter: 79 - 103}

REP. GALLUS then requested that further questions be asked during executive action.

EXECUTIVE ACTION ON SB 490

Motion: **REP. GALLUS** moved that SB 490 BE CONCURRED IN.

Motion: REP. GALLUS moved that SB 490 BE AMENDED. (Exhibit 1)

Discussion:

REP. RICE commented on the amendments.

Vote: Motion carried 12-6 PASS AMENDMENTS with REPS. NEWMAN, EVERETT, FACEY, SALES, SHOCKLEY and MALCOLM voting no.

Vote: Motion carried 17-1 with REP. SALES voting no.

REP. NOENNIG will carry this bill on the House floor.

Closing by Sponsor:

The Sponsor closed.

{Tape: 1; Side: B; Approx. Time Counter: 272 - 280}

EXECUTIVE ACTION ON SJR 31

Motion/Vote: REP. HARRIS moved that SJR 31 BE CONCURRED IN.
Motion carried 18-0.

REP. SHOCKLEY will carry this bill on the House floor.

ADJOURNMENT

Adjournment: 10:00 A.M.

REP. JIM SHOCKLEY, Chairman

ALBERTA STRACHAN, Secretary

JS/LS

EXHIBIT (juh83aad)